

Smyrna School District

New School Band Equipment

Invitation to Bid Contract No. SSD12004-Band

October 10, 2012

***- Deadline to Respond -
October 26, 2012
1:00 p.m.EDT***

CONTRACT NO. SSD12004-Band

ALL BIDDERS:

The enclosed packet contains an "INVITATION TO BID" for New School Band Equipment. The invitation consists of the following documents:

INVITATION TO BID - CONTRACT NO. SSD12004-Band

- 1 DEFINITIONS and GENERAL PROVISIONS
- 2 SPECIAL PROVISIONS and SPECIFICATIONS
- 3 BID QUOTATION REPLY SECTION
 - A - NO BID REPLY FORM
 - B - BID BOND
 - C - NON-COLLUSION STATEMENT AND ACCEPTANCE
 - D - QUOTATION SUMMARY
 - E - OFFICE OF MINORITY AND WOMEN BUSINESS ENTERPRISE (OMWBE) APPLICATION

In order for your bid to be considered, the bid quotation reply section shall be executed completely and correctly and returned in a sealed envelope clearly displaying the contract number, by 1:00 p.m. EDT October 26, 2012.

Bids shall be submitted to:

**SMYRNA SCHOOL DISTRICT
C/O JERRY GALLAGHER
82 MONRAVIA AVENUE
SMYRNA, DE 19977**

Please review and follow the information and instructions contained in the general and special provisions section of the invitation. Should you need additional information, please call Jerry Gallagher at 302-659-4310.

SMYRNA SCHOOL DISTRICT

DEFINITIONS AND GENERAL PROVISIONS

The attached Definitions and General Provisions apply to all contracts and are part of each invitation to bid. The requirement to furnish a bid bond and performance bond is applicable unless waived in the Special Provisions. Should the General Provisions conflict with the Special Provisions, the Special Provisions shall prevail. Bidders or their authorized representatives are required to fully acquaint themselves as to State procurement laws and regulations prior to submitting bid.

DEFINITIONS

Whenever the following terms are used, their intent and meaning shall be interpreted as follows:

STATE: The State of Delaware

DISTRICT: State District as noted on cover sheet.

BID INVITATION: The "bid invitation" or "invitation to bid" is a packet of material sent to vendors and consists of General Provisions, Special Provisions, specifications, and enclosures.

BIDDER OR VENDOR: Any individual, firm, or corporation formally submitting a proposal for the material or work contemplated, acting directly or through a duly authorized representative.

BIDDER'S DEPOSIT: The security designated in the proposal to be furnished by the bidder as a guaranty of good faith to enter into a contract with the District if the work to be performed or the material or equipment to be furnished is awarded to the bidder.

BOND: The approved form of security furnished by the Vendors and its surety as a guaranty of good faith on the part of the Vendor to execute the work in accordance with the terms of the contract.

CENTRAL CONTRACT: A contract intended to be managed by Government Support Services (GSS) on behalf of multiple agencies procuring the same (or similar) material or non-professional service.

CONTRACT: The written agreement covering the furnishing and delivery of material or work to be performed.

CONTRACTOR: Any individual, firm, or corporation with whom a contract is made by the District.

DESIGNATED OFFICIAL: The agent authorized to act for the District.

GENERAL PROVISIONS: General Provisions are instructions pertaining to contracts in general. They contain, in summary, requirements of laws of the State, policies of the District, and instructions to vendors.

PROPOSAL: The offer of the bidder submitted on the approved form and setting forth the bidder's prices for performing the work or supplying the material or equipment described in the specifications.

SPECIAL PROVISIONS: Special Provisions are specific conditions or requirements peculiar to the contract under consideration and are supplemental to the General Provisions. Should the Special Provisions conflict with the General Provisions, the Special Provisions shall prevail.

SURETY: The corporate body which is bound with and for the contract, or which is liable, and which engages to be responsible for the contractor's payments of all debts pertaining to and for its acceptable performance of the work for which it has contracted.

VENDOR: Any individual, firm, or corporation formally submitting a proposal for the material or work contemplated, acting directly or through a duly authorized representative.

SECTION A - GENERAL PROVISIONS

1. **BID INVITATION:**

See "Definitions".

2. **PROPOSAL FORMS:**

The invitation to bid shall contain pre-printed forms for use by the vendor in submitting its bid. The forms shall contain basic information such as description of the item and the estimated quantities and shall have blank spaces for use by the vendor for entering information such as unit bid price, total bid price, etc.

3. **INTERPRETATION OF ESTIMATES:**

- a. The attention of bidders is called to the fact that, unless stated otherwise, any quantities given in the proposal form are to be considered to be approximate only and are given as a basis for the comparison of bids. The District may increase or decrease the amount of any item as may be deemed necessary or expedient, during the period of the contract.
- b. An increase or decrease in the quantity for any item is not sufficient ground for an increase or decrease in the unit price.

4. **SILENCE OF SPECIFICATIONS:**

The apparent silence of the specifications as to any detail, or the apparent omission from it of detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and only material and workmanship of the first quality are to be used. Proof of specifications compliance will be the responsibility of the vendor.

5. **EXAMINATION OF SPECIFICATIONS AND PROVISIONS:**

The bidder shall examine carefully the proposal and the contract forms for the material contemplated. The bidder shall investigate and satisfy itself as to the conditions to be encountered, quality and quantities of the material to be furnished, and the requirements of the Special Provisions and the contract. The submission of a proposal shall be conclusive evidence that the bidder has made examination of the aforementioned conditions.

6. **PREPARATION OF PROPOSAL:**

- a. The bidder's proposal shall be written in ink or typewritten on the form provided.
- b. If items are listed with a zero quantity, bidder shall state unit price **ONLY** (intended for open end purchases where estimated requirements are not known). The proposal shall show a total bid price for each item bid and the total bid price of the proposal excluding zero quantity items.

7. PRICES QUOTED:

The prices quoted are those for which the material will be furnished F.O.B. Ordering District and include all charges that may be imposed during the period of the contract.

8. DISCOUNT:

No qualifying letter or statements in or attached to the proposal, or separate discounts will be considered in determining the low bid except as may be otherwise herein noted. Cash or separate discounts should be computed and incorporated into unit bid price(s).

9. SAMPLES OR BROCHURES:

Samples or brochures may be required by the District for evaluation purposes. They shall be such as to permit the District to compare and determine if the item offered complies with the intent of the specifications.

10. PROPOSAL GUARANTY; BID BOND:

- a. Each bidder shall submit with its proposal a guaranty in sum equal to at least 10% of the total value of its bid, according to Delaware Code Title 29, Section 6927(a).
- b. This bid bond shall be submitted in the form of good and sufficient bond drawn upon an insurance or bonding company authorized to do business in the State of Delaware, to the State of Delaware for the benefit of the District, or a certified check drawn on a reputable banking institution and made payable to the District in the requirement amount. If District bond form is not utilized, the substituted bond forms must conform to the minimum of conditions specified in the District bond form.

11. DELIVERY OF PROPOSALS:

Proposals shall be delivered in sealed envelopes, and shall bear on the outside the name and address of the bidder as well as the designation of the contract. Proposals forwarded by U.S. Mail shall be sent first class to the address listed below. Proposals forwarded by delivery service other than the U.S. Mail or hand delivered must be delivered to the address listed below. All bids must clearly display the bid number on the envelope.

**SMYRNA SCHOOL DISTRICT
C/O JERRY GALLAGHER
82 MONRAVIA AVENUE
SMYRNA, DE 19977**

All proposals will be accepted at the time and place set in the advertisement. Bidder bears the risk of delays in delivery. Proposals received after the time set for public opening will be returned unopened.

12. WITHDRAWAL OF PROPOSALS:

A bidder may withdraw its proposal unopened after it has been deposited, if such a request is made prior to the time set for the opening of the proposal.

13. PUBLIC OPENING OF PROPOSALS:

The bids shall be publicly opened at the time and place specified by the District. Bidders or their authorized representatives are invited to be present.

14. PUBLIC INSPECTION OF PROPOSALS:

If the bidder designates a portion of its bid as confidential, it shall isolate and identify in writing the confidential portions. The bidder shall include with this designation a statement that explains and supports the firm's claim that the bid items identified as confidential contain trade secrets or other proprietary data.

15. DISQUALIFICATION OF BIDDERS:

Any one or more of the following causes may be considered as sufficient for the disqualification of a bidder and the rejection of its proposal or proposals:

- a. More than one proposal for the same contract from an individual, firm, or corporation under the same or different names.
- b. Evidence of collusion among bidders.
- c. Unsatisfactory performance record as evidenced by past experience.
- d. If the unit prices are obviously unbalanced either in excess or below reasonable cost analysis values.
- e. If there are any unauthorized additions, interlineations, conditional or alternate bids or irregularities of any kind which may tend to make the proposal incomplete, indefinite, or ambiguous as to its meaning.
- f. Non-attendance of mandatory pre-bid meetings may be cause of disqualification.

16. ADDENDA TO THE ITB:

If it becomes necessary to revise any part of this ITB, revisions will be posted at <http://bids.delaware.gov/>. By submitting an offer to the district, vendors have acknowledged receipt, understanding and commitment to comply with all materials, revisions, and addenda related to the Invitation to Bid.

SECTION B - AWARD AND EXECUTION OF CONTRACT

1. CONSIDERATION OF BIDS:

- a. After the proposals have been opened, the bids will be tabulated and the results will be made available to the public. Tabulations of the bids will be based on the correct summation of items at the unit price bid.
- b. The right is reserved to waive technicalities, to reject any or all bids, or any portion thereof, to advertise for new proposals, to proceed to do the work otherwise, or to abandon the work, if in the judgment of the District or its agent, the best interest of the State will be promoted thereby.

2. MATERIAL GUARANTY:

Before any contract is awarded, the successful bidder may be required to furnish a complete statement of the origin, composition and manufacture of any or all of the material to be used in the contract together with such samples as may be requested for the purpose of testing.

3. CONTRACT AWARD:

Within thirty days from the date of opening proposals, the contract will be awarded or the proposals rejected.

4. EXECUTION OF CONTRACT:

- a. The bidder to whom the award is made shall execute a formal contract and bond within twenty days after date of official notice of the award of the contract.
- b. If the successful bidder fails to execute the required contract and bond, as aforesaid, within twenty days after the date of official notice of the award of the contract, its proposal guaranty shall immediately become forfeited as liquidated damages. Award will then be made to the next lowest qualified bidder of the work or re-advertised, as the District may decide.

5. REQUIREMENT OF CONTRACT BOND:

- a. Successful bidders shall furnish bond, simultaneously with the execution of the formal contract, to the State of Delaware for the benefit of the District with surety in the amount of 100% of the total contract award or as otherwise provided in the Special Provisions. Said bonds shall be conditioned upon the faithful performance of the contract.
- b. The bond forms shall be provided by the District and the surety shall be acceptable to the District.

6. WARRANTY:

The successful bidder(s) shall be required to extend any policy guarantee usually offered to the general public, FEDERAL, STATE, COUNTY, or MUNICIPAL governments, on material in this contract against defective material, workmanship, and performance.

7. **THE CONTRACT(S):**

The contract(s) with the successful bidder(s) will be executed with the district.

8. **RETURN OF BIDDER'S DEPOSIT:**

The deposits shall be returned to the successful bidder upon the execution of the formal contract. The deposits of unsuccessful bidders shall be returned to them immediately upon the awarding of the contract or rejection of their bids.

9. **INFORMATION REQUIREMENT:**

The successful bidder's shall be required to advise the district of the gross amount of purchases made as a result of the contract.

10. **CONTRACT EXTENSION:**

The district reserves the right to extend this contract on a month-to-month basis for a period of up to three months.

11. **TERMINATION FOR CONVENIENCE:**

Contracts shall remain in effect for the time period and quantity specified unless the contract is terminated by the district. The district may terminate the contract at any time by giving written notice of such termination and specifying the effective date thereof, at least sixty (60) days before the effective date of termination.

12. **TERMINATION FOR CAUSE:**

If, for any reasons, or through any cause, the Contractor fails to fulfill in timely and proper manner its obligations under this Contract, or if the Contractor violates any of the covenants, agreements, or stipulations of this Contract, the district shall thereupon have the right to terminate this contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least 5 days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Contractor under this Contract shall, at the option of the district, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials which is usable to the district.

SECTION C - GENERAL

1. AUTHORITY OF DISTRICT:

On all questions concerning the interpretation of specifications, the acceptability and quality of material furnished and/or work performed, the classification of material, the execution of the work, and the determination of payment due or to become due, the decision of the District shall be final and binding.

2. LAWS TO BE OBSERVED:

The contractor is presumed to know and shall strictly comply with all National, State, or County laws, and City or Town ordinances and regulations in any manner affecting the conduct of the work. The contractor shall indemnify and save harmless the State of Delaware, the District, and all Officers, Agents and Servants thereof against any claim or liability arising from or based upon the violation of any such laws, ordinances, regulations, orders, or decrees whether by itself or by its employees.

3. PERMITS AND LICENSES:

All necessary permits, licenses, insurance policies, etc. required by local, State or Federal laws, shall be provided by the contractor at its own expense.

4. PATENTED DEVICES, MATERIAL AND PROCESSES:

- a. The contractor shall provide for the use of any patented design, device, material, or process to be used or furnished under this contract by suitable legal agreement with the patentee or owner, and shall file a copy of this agreement with the District.
- b. The contractor and the surety shall hold and save harmless the State of Delaware, the District, the Director, their Officers or Agents from any and all claims because of the use of such patented design, device, material, or process in connection with the work agreed to be performed under this contract.

5. EMERGENCY TERMINATION OF CONTRACT:

- a. Due to restrictions which may be established by the United States Government on material, or work, a contract may be terminated by the cancellation of all or portions of the contract.
- b. In the event the contractor is unable to obtain the material required to complete the items of work included in the contract because of restrictions established by the United States Government and if, in the opinion of the District, it is impractical to substitute other available material, or the work cannot be completed within a reasonable time, the incomplete portions of the work may be cancelled, or the contract may be terminated.

6. TAX EXEMPTION:

- a. Material covered by this proposal is exempt from all FEDERAL and STATE TAXES. Such taxes shall not be included in prices quoted.

- b. Any material which is to be incorporated in the work or any equipment required for the work contemplated in the proposal may be consigned to the District. If the shipping papers show clearly that any such material is so consigned, the shipment will be exempt from the tax on the transportation of property under provisions of Section 3475 (b) of the Internal Revenue Code, as amended by Public Law 180 (78th Congress). All transportation charges shall be paid by the contractor. Each bidder shall take its exemption into account in calculating its bid for its work.

7. **OR EQUAL (PRODUCTS BY NAME):**

Specifications of products by name are intended to be descriptive of quality or workmanship, finish and performance. Desirable characteristics are not intended to be restrictive. Substitutions of products for those named will be considered provided the vendor certifies that the function, characteristics, performance and endurance qualities of the material offered is equal or superior to that specified.

8. **BID EVALUATION AND AWARD:**

The district will award this contract to the lowest responsible bidder(s) which in their judgment best serves the interest of the State of Delaware in accordance with Delaware Code Title 29, Section 6923(k). Personnel with experience and technical background may be utilized by the district in making judgment. In case of error in price extension, the unit price(s) shall prevail.

9. **INVOICING:**

After the awards are made, the district may forward their purchase orders to the successful bidder(s) in accordance with State Purchasing Procedures. The district will generate a payment voucher upon receipt of an invoice from the vendor.

SECTION D - EQUAL OPPORTUNITY

1. EQUALITY OF EMPLOYMENT OPPORTUNITY ON PUBLIC WORKS:

During the performance of any contract for public works financed in whole or in part by appropriation of the State of Delaware, the contractor agrees as follows:

- a. The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, age, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated equally during employment without regard to their race, creed, color, sex, age, or national origin. Such action shall include, but not be limited to the following: advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training including apprenticeships. The contractor agrees to post in conspicuous places, notices to be provided by the contracting District setting forth the provisions of this non-discrimination clause.
- b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, age, or national origin.
- c. The term "contractor for public works" means construction, reconstruction, demolition, alteration, and/or repair work, maintenance work, and paid for in whole or in part out of the funds of a public body except work performed under a vocational rehabilitation program. The manufacture or furnishing of materials, articles, supplies or equipment is not a public work within the meaning of this subsection unless conducted in connection with and at the site of the public work.

CONTRACT NO. Band Equipment
SSD12004-Band
SPECIAL PROVISIONS

1. **CONTRACT REQUIREMENTS:**

This contract will be issued to cover the New School Band Equipment requirements for the Smyrna School District and shall be accessible to any other School District within the State of Delaware that may elect to participate in the contract.

2. **NOT A MANDATORY USE CONTRACT:**

This contract while not a mandatory use as defined by Title 29, Chapter 6911(d) Delaware Code will be made available for use by all Delaware School Districts and all State agencies.

3. **CONTRACT PERIOD:**

Each vendor's contract shall be valid for a one year period from October 26, 2012 through October 25, 2013. Each contract may be renewed for three (3) one (1) year periods through negotiation between the contractor and the district. Negotiations must be initiated no later than ninety (90) days prior to the termination of the current agreement.

4. **PRICES:**

Prices shall remain firm for the term of the contract.

5. **PRICE ADJUSTMENT:**

If agreement is reached to extend this contract beyond the initial one year period, the district shall have the option of offering a determined price adjustment that shall not exceed the current Philadelphia All Urban Consumers Price Index (CPI-U), U.S. City Average. If the CPI-U is used, any increase/decrease shall reflect the change during the previous published twelve (12) month period at the time of renegotiation.

6. **SHIPPING TERMS:**

F.O.B. destination; freight pre-paid.

7. **QUANTITIES:**

The attention of bidders is called to the fact that, unless stated otherwise, the quantities given in the proposal are best estimates and are given as a basis for the comparison of bids. Quantities ordered may be increased or decreased by any eligible District as deemed necessary during the period of the contract.

8. **FUNDING OUT:**

The continuation of this contract is contingent upon funding appropriated by the legislature.

9. **BID BOND REQUIREMENT:**

Bid Bond Waived.

10. **PERFORMANCE BOND REQUIREMENT:**

Performance Bond Waived

11. **MANDATORY INSURANCE REQUIREMENTS:**

a. Certificate of Insurance and/or copies of insurance policies for the following:

1) As a part of the contract requirements, the contractor must obtain at its own cost and expense and keep in force and effect during the term of this contract, including all extensions, the minimum coverage limits specified below with a carrier satisfactory to the State. All contractors must carry Comprehensive General Liability and at least one of the other coverages depending on the type of service or product being delivered.

a. Comprehensive General Liability - \$1,000,000.00 per person/\$3,000,000 per occurrence.

and

b. Medical/Professional Liability - \$1,000,000.00 per person/\$3,000,000 per occurrence.

or

c. Miscellaneous Errors and Omissions - \$1,000,000.00 per person/\$3,000,000 per occurrence.

or

d. Product Liability - \$1,000,000.00 per person/\$3,000,000 per occurrence.

2) Automotive Liability Insurance covering all automotive units used in the work with limits of not less than \$100,000 each person and \$300,000 each accident as to bodily injury and \$25,000 as to property damage to others.

3) Forty-five (45) days written notice of cancellation or material change of any policies is required.

**Smyrna School District
C/O Jerry Gallagher
Contract No. SSD12004-Band
82 Monrovia Avenue
Smyrna, DE 19977**

Note: The State of Delaware shall not be named as an additional insured.

12. BASIS OF AWARD:

The district shall award this contract to the lowest responsible and responsive bidder(s) who best meets the terms and conditions of the bid. The award will be made on basis of price, product evaluation, and prior history of service and capability.

The district reserves the right to reject any or all bids in whole or in part, to make multiple awards, partial awards, award by types, item by item, or lump sum total, whichever may be most advantageous to the district.

13. STATE OF DELAWARE BUSINESS LICENSE:

Prior to receiving an award, the successful vendor shall either furnish the district with proof of State of Delaware Business Licensure or initiate the process of application where required. An application may be requested in writing to: Division of Revenue, Carvel State Building, P.O. Box 8750, 820 N. French Street, Wilmington, DE 19899-8750 or by telephone to one of the following numbers: (302) 577-8201 - Public Service, (302) 577-8205 - Licensing Department.

Information regarding the award of this contract will be given to the Division of Revenue. Failure to comply with the State of Delaware licensing requirements may subject your organization to applicable fines and/or interest penalties.

14. HOLD HARMLESS:

The successful bidder agrees that it shall indemnify and hold the district and all its agencies harmless from and against any and all claims for injury, loss of life, or damage to or loss of use of property caused or alleged to be caused, by acts or omissions of the successful bidder, its employees, and invitees on or about the premises and which arise out of the successful bidder's performance, or failure to perform as specified in the Agreement.

15. OWNERSHIP OF INTELLECTUAL PROPERTY:

All copyright and patent rights to all papers, reports, forms, materials, creations, or inventions created or developed in the performance of this contract shall become the sole property of the district. On request, the contractor shall promptly provide an acknowledgment or assignment in a tangible form satisfactory to the district to evidence the district's sole ownership of specifically identified intellectual property created or developed in the performance of the contract.

16. NON-PERFORMANCE:

In the event the vendor does not fulfill its obligations under the terms and conditions of this contract, the ordering District may purchase equivalent product on the open market. Any difference in cost between the contract prices herein and the price of open market product shall be the responsibility of the vendor.

Under no circumstances shall monies be due the vendor in the event open market products can be obtained below contract cost. Any monies charged to the vendor may be deducted from an open invoice.

17. **FORCE MAJEURE:**

Neither the vendor nor the ordering District shall be held liable for non-performance under the terms and conditions of this contract due, but not limited to, government restriction, strike, flood, fire, or unforeseen catastrophe beyond either party's control. Each party shall notify the other in writing of any situation that may prevent performance under the terms and conditions of this contract.

18. **CONTRACTOR NON-ENTITLEMENT:**

State of Delaware Contractors for Materiel and for Services shall not have legal entitlement to, nor seek business from another Contractors' Central Contract. Additionally, they shall not utilize other Central Contracts to fulfill the requirements of their respective contract as they are not a "Covered Agency" as defined by Title 29 Chapter 69 of the State Procurement Code.

19. **EXCEPTIONS:**

Bidders may elect to take minor exception to the terms and conditions of this ITB. The district shall evaluate each exception according to the intent of the terms and conditions contained herein, but the district must reject exceptions that do not conform to State bid law and/or create inequality in the treatment of bidders. Exceptions shall be considered only if they are submitted with the bid or before the date and time of the bid opening.

20. **BUSINESS REFERENCES:**

In order to have your bid considered, please supply three (3) business references consisting of current or previous customers with your reply. Please include name, address, telephone number, and a contact person.

21. **ORDERING PROCEDURE:**

Successful contractors are required to have either a local telephone number within the (302) area code, a toll free (800) number, or agree to accept collect calls. Each District is responsible for placing their orders and may be accomplished by written purchase order, telephone, fax or computer on-line systems. The contractor or vendor must accept full payment by procurement (credit) card and/or conventional check and/or other electronic means at the district's option, without imposing any additional fees, costs or conditions.

22. **BILLING:**

The successful vendor is required to "Bill as Shipped" to the respective ordering District(s). Ordering agencies shall provide contract number, ship to and bill to address, contact name and phone number.

23. **PAYMENT:**

The agencies or school districts involved will authorize and process for payment each invoice within thirty (30) days after the date of receipt of a correct invoice. The contractor or vendor must accept full payment by procurement (credit) card and/or conventional check and/or other electronic means at the State's option, without imposing any additional fees, costs or conditions.

24. **PRODUCT SUBSTITUTION:**

All items delivered during the life of the contract shall be of the same type and manufacture as specified or accepted as part of the bid proposal unless specific approval is given by the district to do otherwise. However, awarded vendors are highly encouraged to offer any like substitute product (s); either generic or brand name, at any time during the subsequent contract term, especially if an opportunity for cost savings to the state exists. In such cases, the state may require the submission of written specifications and/or product samples for evaluation prior to any approvals being granted.

25. **CONTRACTOR RESPONSIBILITY:**

The district will enter into a contract with the successful contractor. The successful contractor shall be responsible for all products and services as required by this ITB. Subcontractors, if any, shall be clearly identified in the financial proposal.

26. **PERSONNEL:**

- a. The Contractor represents that they have, or will secure at their own expense, all personnel required to perform the services required under this contract.

- b. All of the services required hereunder shall be performed by the Contractor or under its direct supervision, and all personnel, including subcontractors, engaged in the work shall be fully qualified and shall be authorized under State and local law to perform such services.
- c. None of the work or services covered by this contract shall be subcontracted without the prior written approval of the district.

27. LIFE CYCLE COSTING:

If applicable, the specifications contained within this ITB have been developed through Life Cycle Cost Analysis that will allow the district to realize the lowest total cost of ownership and operation over the useful life of the equipment.

28. ENVIRONMENTAL PROCUREMENT REQUIREMENTS:

- a. Energy Star - If applicable, the Contractor must provide products that earn the ENERGY STAR rating and meet the ENERGY STAR specifications for energy efficiency in order to keep overall event costs to a minimum. The Contractor is encouraged to visit www.energystar.gov for complete product specifications and updated lists of qualifying products.
- b. Green Products – third party certification of green products accepted from GSS w/approved green certification shall be offered wherever available in addition to or as a substitute for non-green products.
- c. Contractors shall report all green items procured during the monthly reporting period using the Usage Report that will be provided to the awarded Vendor(s).
- d. Environmental Procurement Policies of the State shall determine acceptable consideration and credit for environmentally preferred products and services in the performance of this award. The State Environmental Procurement Policies may be found:
<http://gss.omb.delaware.gov/contracting/documents/agencyboilers/espp.pdf>.

31. TERMINATION FOR CONVENIENCE:

Contracts shall remain in effect for the time period and quantity specified unless the contract is terminated by the district. The district may terminate the contract at any time by giving written notice of such termination and specifying the effective date thereof, at least sixty (60) days before the effective date of termination.

32. TERMINATION FOR CAUSE:

If, for any reasons, or through any cause, the Contractor fails to fulfill in timely and proper manner its obligations under this Contract, or if the Contractor violates any of the covenants, agreements, or stipulations of this Contract, the district shall thereupon have the right to terminate this contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least 5 days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Contractor under this Contract shall, at the option of the district, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials which is usable to the district.

33. AUDIT ACCESS TO RECORDS:

The Vendor shall maintain books, records, documents, and other evidence pertaining to this Contract to the extent and in such detail as shall adequately reflect performance hereunder. The Vendor agrees to

preserve and make available to the State, upon request, such records for a period of five (5) years from the date services were rendered by the Vendor. Records involving matters in litigation shall be retained for one (1) year following the termination of such litigation. The Vendor agrees to make such records available for inspection, audit, or reproduction to any official State representative in the performance of their duties under the Contract. Upon notice given to the Vendor, representatives of the State or other duly authorized State or Federal agency may inspect, monitor, and/or evaluate the cost and billing records or other material relative to this Contract. The cost of any Contract audit disallowances resulting from the examination of the Vendor's financial records will be borne by the Vendor. Reimbursement to the State for disallowances shall be drawn from the Vendor's own resources and not charged to Contract cost or cost pools indirectly charging Contract costs.

34. VENDOR EMERGENCY RESPONSE POINT OF CONTACT:

The awarded vendor(s) shall provide the name(s), telephone, or cell phone number(s) of those individuals who can be contacted twenty four (24) hours a day, seven (7) days a week to meet a critical need for commodities or services when the Governor of the State of Delaware declares a state of emergency under the current Delaware Emergency Operations Plan. Failure to provide this information could render the bid as non-responsive.

35. ELECTRONIC CATALOG:

The successful vendor(s) may be required to submit their items list in electronic format designated by the State.

Note: The State of Delaware is in the process of implementing a new financials system, which will require the use of:

- Electronic catalogs
- Commodity/classification code: United Nations Standard Products and Services Code (UNSPSC).
- A unique item ID for all items in our system

The state has made the determination to include the requirement in this contract for two reasons:

1. To find out what vendors can offer.
2. To give the agencies and school districts a level of comfort in using electronic catalogs.

36. SUBCONTRACTS:

Subcontracting is permitted under this ITB and contract. However, every subcontractor shall be identified in the Proposal (Attachment E) and agreed to in writing by the district or as are specifically authorized in writing by the District during the performance of the contract. Any substitutions in or additions to such subcontractors, associates, or consultants will be subject to the prior written approval of the district.

The Vendor(s) shall be responsible for compliance by the subcontractor with all terms, conditions and requirements of the ITB and with all local, State and Federal Laws. The Vendor shall be liable for any noncompliance by any subcontractor. Further, nothing contained herein or in any subcontractor agreement shall be construed as creating any contractual relationship between the subcontractor and the district.

If a company elects to be a subcontractor for another vendor, the subcontractor may not independently bid on this solicitation.

37. **CONFIDENTIALITY:**

All documents submitted as part of the vendor's proposal will be deemed confidential during the evaluation process. Vendor proposals will not be available for review by anyone other than the district/Proposal Evaluation Committee or its designated agents. There shall be no disclosure of any vendor's information to a competing vendor prior to award of the contract.

The district is a public agency as defined by state law, and as such, it is subject to the Delaware Freedom of Information Act, 29 *Del. C.* Ch. 100. Under the law, all the State of Delaware's records are public records (unless otherwise declared by law to be confidential) and are subject to inspection and copying by any person. Vendor(s) are advised that once a proposal is received by the district and a decision on contract award is made, its contents will become public record and nothing contained in the proposal will be deemed to be confidential except proprietary information.

Vendor(s) shall not include any information in their proposal that is proprietary in nature or that they would not want to be released to the public. Proposals must contain sufficient information to be evaluated and a contract written without reference to any proprietary information. If a Vendor feels that they cannot submit their proposal without including proprietary information, they must adhere to the following procedure or their proposal may be deemed unresponsive and will not be recommended for selection. Vendor(s) must submit such information in a separate, sealed envelope labeled "Proprietary Information" with the ITB number. The envelope must contain Attachment H describing the documents in the envelope, representing in good faith that the information in each document is not "public record" as defined by 29 *Del. C.* § 10002(d), and briefly stating the reasons that each document meets the said definitions.

Upon receipt of a proposal accompanied by such a separate, sealed envelope, the district will open the envelope to determine whether the procedure described above has been followed.

If the Vendor does not have any documents it declares confidential or proprietary, Attachment H should be completed by checking the appropriate box found at the top of the attachment.

TECHNICAL SPECIFICATIONS

1. OVERVIEW

To provide new school band equipment for Clayton Intermediate School.

2. PREVAILING WAGE

The prevailing wage law, 29 Del. C. Section 6960, is enforced by the Department of Labor and states that the specifications for every contract or aggregate of contracts relating to a public works project in excess of \$100,000 for new construction (including painting and decorating) or \$15,000 for alteration, repair, renovation, rehabilitation, demolition or reconstruction (including painting and decorating of building or works) to which this state or any subdivision thereof is a party and for which the State appropriated any part of the funds and which requires or involves the employment of mechanics and/or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics which shall be based upon the wages that will be determined by the Delaware Department of Labor, Division of Industrial Affairs, to be prevailing in the county in which the work is to be performed. <http://dia.delawareworks.com/labor-law/prevailing-wage.php>

3. APPENDIX A

Appendix A is an Excel workbook to be completed electronically by the bidder. The purpose of the workbook is to submit contract pricing as well as other relevant information that will be used to evaluate each bidder's ability to fulfill the contract. Any information that is required in the ITB response and hasn't been addressed in this workbook shall be submitted in hardcopy form.

4. DEALER AUTHORIZATION

Bidders are required to submit Dealer Authorization letter from the OEM stating it is authorized to sell the product and that all OEM equipment warranties are applicable. The contract vendor will be solely responsible for all warranty issues.

5. DELIVERY

The awarded vendor will work with the district to coordinate delivery of all equipment listed. A dealer representative is required to be on hand at the time of delivery.

6. MAINTENANCE

The awarded vendor is to provide one year maintenance support at no additional charge to the district.

BID QUOTATION REPLY SECTION

CONTRACT NO. SSD12004-Band

New School Band Equipment

Please fill out the attached forms fully and completely and return with your bid in a sealed envelope clearly displaying the contract number to the Smyrna School District by 1:00 p.m. EDT October 26, 2012 at which time bids will be opened.

Bids shall be submitted to:

**SMYRNA SCHOOL DISTRICT
C/O JERRY GALLAGHER
82 MONRAVIA AVENUE
SMYRNA, DE 19977**

PUBLIC BID OPENINGS

The public bid opening insures the citizens of Delaware that contracts are being bid fairly on a competitive basis and comply with Delaware procurement laws. The District conducting the opening is required by law to publicly open the bids at the time and place specified and the contract shall be awarded within thirty (30) days thereafter. The main purpose of the bid opening is to reveal the name(s) of the bidders(s), not to serve as a forum for determining the apparent low bidders. The disclosure of additional information, including prices, shall be at the discretion of the contracting District until such time that the responsiveness of each bid has been determined.

After receipt of a fully executed contract(s), the Delaware public and all bidders are invited to make an appointment with the contracting officer in order to review pricing and other non-confidential information.

NOTE: ONLY THE BIDDER'S NAME WILL BE READ AT THE BID OPENING

Proposal Reply Requirements

The response should contain at a minimum the following information:

1. Brief Vendor Cover Letter including an Applicant's experience, if any, providing similar services.
2. One (1) paper copy of the **Appendix A** bid response paperwork.

The Appendix A – Pricing Spreadsheet is available at the following website:

www.bids.delaware.gov

Vendors **MUST** provide copies of all pricing spreadsheet tabs.

3. One (1) complete, signed and notarized copy of the non-collusion agreement (see Attachment C). **MUST HAVE ORIGINAL SIGNATURES AND NOTARY MARK**
4. One (1) complete and signed copy of the Subcontractor Information Form (See Attachment D) for each subcontractor – only provide if applicable.
5. One (1) completed Business Reference form (See Attachment E) – please provide references other than State of Delaware contacts. Form must be included.
6. One (1) completed ITB Exception form (See Attachment F) – please check box if no information. Form must be included.
7. One (1) completed Confidential Information form (See Attachment G) – please check box if no information provided will be considered confidential or proprietary. Form must be included.
8. One (1) complete Office of Supplier Diversity Certification Application (see link in Attachment H) – only provide if applicable

The items listed above provide the basis for evaluating each vendor's proposal. **Failure to provide all appropriate information may deem the submitting vendor as “non-responsive” and exclude the vendor from further consideration.** If an item listed above is not applicable to your company or proposal, please make note in your submission package.

Attachment B

SMYRNA SCHOOL DISTRICT
C/O JERRY GALLAGHER
82 MONROVIA AVENUE
SMYRNA, DELAWARE 19977

NO BID REPLY FORM

BID #SSD12004-Band

BID TITLE: New School Band Equipment

To assist us in obtaining good competition on our Request for Bids, we ask that each firm that has received an invitation, but does not wish to bid, state their reason(s) below and return in a clearly marked envelope displaying the contract number. This information will not preclude receipt of future invitations unless you request removal from the Bidder's List by so indicating below, or do not return this form or bona fide bid.

Unfortunately, we must offer a "No Bid" at this time because:

_____ 1. We do not wish to participate in the bid process.

_____ 2. We do not wish to bid under the terms and conditions of the Request for Bid document. Our objections are:

_____ 3. We do not feel we can be competitive.

_____ 4. We cannot submit a Bid because of the marketing or franchising policies of the manufacturing company.

_____ 5. We do not wish to sell to the State. Our objections are: _____

_____ 6. We do not sell the items/services on which Bids are requested.

_____ 7. Other: _____

FIRM NAME

SIGNATURE

_____ We wish to remain on the Bidder's List **for these goods or services.**

_____ We wish to be deleted from the Bidder's List **for these goods or services.**

CONTRACT NO.: SSD12004-Band
TITLE: New School Band Equipment
OPENING DATE: October 26, 2012 at 1:00 p.m. EDT

Attachment C

NON-COLLUSION STATEMENT

This is to certify that the undersigned bidder has neither directly nor indirectly, entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with this bid submitted this date to the Smyrna School District.

It is agreed by the undersigned bidder that the signed delivery of this bid represents the bidder's acceptance of the terms and conditions of this Invitation to Bid including all specifications and special provisions.

NOTE: Signature of the authorized representative **MUST** be of an individual who legally may enter his/her organization into a formal contract with the Smyrna School District.

COMPANY NAME _____ (Check one)

<input type="checkbox"/>	Corporation
<input type="checkbox"/>	Partnership
<input type="checkbox"/>	Individual

NAME OF AUTHORIZED REPRESENTATIVE
(Please type or print) _____

SIGNATURE _____ TITLE _____

COMPANY ADDRESS _____

PHONE NUMBER _____ FAX NUMBER _____

EMAIL ADDRESS _____

FEDERAL E.I. NUMBER _____

STATE OF DELAWARE
LICENSE NUMBER _____

	(circle one)		(circle one)		(circle one)	
COMPANY CLASSIFICATIONS: CERT. NO. _____	<u>Women</u>	Yes No	<u>Minority</u>	Yes No	<u>Disadvantaged</u>	Yes No
	<u>Business</u>		<u>Business</u>		<u>Business</u>	
	<u>Enterprise</u>		<u>Enterprise</u>		<u>Enterprise</u>	
	<u>(WBE)</u>		<u>(MBE)</u>		<u>(DBE)</u>	

[The above table is for information and statistical use only.]

PURCHASE ORDERS SHOULD BE SENT TO:

(COMPANY NAME) _____

ADDRESS _____

CONTACT _____

PHONE NUMBER _____ FAX NUMBER _____

EMAIL ADDRESS _____

AFFIRMATION: Within the past five years, has your firm, any affiliate, any predecessor company or entity, owner, Director, officer, partner or proprietor been the subject of a Federal, State, Local government suspension or debarment?

YES _____ NO _____ if yes, please explain _____

THIS PAGE SHALL BE SIGNED, NOTARIZED AND RETURNED FOR YOUR BID TO BE CONSIDERED

SWORN TO AND SUBSCRIBED BEFORE ME this _____ day of _____, 20 _____

Notary Public _____ My commission expires _____

City of _____ County of _____ State of _____

Revised: 6/29/2012 jms

Subcontractor Information Form

CONTRACT NO. **SSD12004-Band**

CONTRACT NAME: New School **Band Equipment**

PART I – STATEMENT BY PROPOSING VENDOR		
1. CONTRACT NO. [INSERT CONTRACT NO.]	2. Proposing Vendor Name:	3. Mailing Address
4. SUBCONTRACTOR		
a. NAME	4c. Company OMWBE Classification: Certification Number: _____	
b. Mailing Address:	<div style="display: flex; justify-content: space-between;"> <div> 4d. Women Business Enterprise 4e. Minority Business Enterprise 4f. Disadvantaged Business Enterprise 4g. Veteran Owned Business Enterprise </div> <div style="text-align: right;"> <div><input type="checkbox"/> Yes <input type="checkbox"/> No</div> <div><input type="checkbox"/> Yes <input type="checkbox"/> No</div> <div><input type="checkbox"/> Yes <input type="checkbox"/> No</div> <div><input type="checkbox"/> Yes <input type="checkbox"/> No</div> </div> </div>	
5. DESCRIPTION OF WORK BY SUBCONTRACTOR		
6a. NAME OF PERSON SIGNING	7. BY <i>(Signature)</i>	8. DATE SIGNED
6b. TITLE OF PERSON SIGNING		
PART II – ACKNOWLEDGEMENT BY SUBCONTRACTOR		
9a. NAME OF PERSON SIGNING	10. BY <i>(Signature)</i>	11. DATE SIGNED
9b. TITLE OF PERSON SIGNING		

Business References

CONTRACT NO. **SSD12004-Band**
Contract Name: **New School Band Equipment**

List a minimum of three business references, including the following information:

- Business Name and Mailing address
- Contact Name and phone number
- Number of years doing business with
- Type of work performed

Please do not list any State Employee as a business reference. If you have held a State contract within the last 5 years, please list the contract.

1. Business Name/Mailing Address:
Contact Name/Phone Number:
Number of years doing business with :
Describe type of work performed:
2. Business Name/Mailing Address:
Contact Name/Phone Number:
Number of years doing business with :
Describe type of work performed:
3. Business Name/Mailing Address:
Contact Name/Phone Number:
Number of years doing business with :
Describe type of work performed:

PLEASE DO NOT INCLUDE STATE OF DELAWARE PERSONNEL AS REFERENCES.

ITB Exceptions

CONTRACT NO. **SSD12004-Band**

Contract Name: New School **Band Equipment**

Proposals must include all exceptions to the specifications, terms or conditions contained in this ITB. If the vendor is submitting the proposal without exceptions, please state so below.

☐ By checking this box, the Vendor acknowledges that they take no exceptions to the specifications, terms or conditions found in this ITB.

[illegible]

Note: use additional pages as necessary.

Confidential Information FormCONTRACT NO. **SSD12004-Band**Contract Name: New School **Band Equipment**

☐ By checking this box, the Vendor acknowledges that they are not providing any information they declare to be confidential or proprietary for the purpose of production under 29 Del. C. ch. 100, Delaware Freedom of Information Act.

Confidentiality and Proprietary Information

Note: Add additional pages as needed.



State of Delaware

Office of Supplier Diversity Certification Application

The most recent application can be downloaded from the following site:

http://gss.omb.delaware.gov/osd/docs/certapp_022510.pdf



Complete application and mail, email or fax to:

Office of Supplier Diversity (OSD)

100 Enterprise Place, Suite 4

Dover, DE 19904-8202

Telephone: (302) 857-4554 Fax: (302) 677-7086

Email: osd@state.de.us

Web site: <http://gss.omb.delaware.gov/osd/index.shtml>